



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

PIEDMONT REGIONAL OFFICE

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L. Preston Bryant, Jr.
Secretary of Natural Resources

David K. Paylor
Director

Gerard Seeley, Jr.
Regional Director

STATE WATER CONTROL BOARD ENFORCEMENT ACTION SPECIAL ORDER BY CONSENT ISSUED TO MR. FRANCIS JARRELLE

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code §§ 10.1-1185 and 62.1-44.15(8a) and (8d), between the State Water Control Board and Mr. Francis Jarrelle for the purpose of resolving certain violations of environmental law and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Order" means this document, also known as a Consent Special Order.
6. "Mr. Jarrelle" means Mr. Francis Jarrelle, owner and developer of the property located at Lot 17, Thorngate Road, in the Salisbury Subdivision in Chesterfield County.

7. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
8. "NOV" means Notice of Violation.

SECTION C: Findings of Fact and Conclusions of Law

1. Mr. Jarrelle is the owner and developer of property containing four lots (Lots 15, 16, 17, & 18) on Thorngate Rd., in the Salisbury Subdivision in Chesterfield County.
2. On July 12, 2005, DEQ received a report from the Corps of unauthorized filling of wetlands on Mr. Jarrelle's property in the Salisbury Subdivision. The Corps and Mr. Jarrelle's consultants had conducted a site inspection of Mr. Jarrelle's property in May 2005. During the site inspection, the Corps observed that unauthorized filling activities had occurred at Lot 17. The Corps notified Mr. Jarrelle, by letter dated July 11, 2005, of the unauthorized activities.
3. On September 14, 2005, DEQ issued a NOV to Mr. Jarrelle citing unauthorized activities in wetlands on his property, Lot 17, located in the Salisbury subdivision. The NOV cited that the unauthorized activities had impacted approximately 0.15 acre of forested wetlands.
4. Mr. Jarrelle's office called DEQ on September 19, 2005 in response to the NOV and to arrange a meeting with the appropriate persons to resolve the matter.
5. On October 19, 2005, DEQ staff met on-site with the Corps, County, Mr. Jarrelle and his consultants. DEQ staff observed that the site appeared to previously have contained palustrine forested wetlands. The wetlands had been cleared, grubbed and filled. The foundation for a house was already in place. The Corps determined that 0.15 acre of forested wetlands had been filled without a permit. To resolve and mitigate for the unauthorized filling activities, Mr. Jarrelle agreed to purchase, at the ratio of 2:1 for forested wetland impacts, 0.30 acre of wetland credits at an approved wetland mitigation bank.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code § 62.1-44.15(8a) and (8d), orders Mr. Jarrelle and Mr. Jarrelle agrees, to perform the actions described in Appendix A of this Order. In addition, the Board orders Mr. Jarrelle, and Mr. Jarrelle voluntarily agrees, to pay a civil charge of \$6,000 within 30 days of the effective date of the Order in settlement of the violations cited in this Order. The payment shall note that it is being made pursuant to this order and shall note the Federal Identification Number for Mr. Jarrelle. Payment shall be by check, certified check, money order, or cashiers check payable to "Treasurer of Virginia" and sent to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Mr. Jarrelle, for good cause shown by Mr. Jarrelle, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the NOV issued on September 14, 2005 as listed in section C above. This Order shall not preclude the Board or the Director from taking any action authorized by law, including, but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; and/or (3) taking subsequent action to enforce the terms of this Order. Nothing herein shall affect appropriate enforcement actions by other federal, state, or local regulatory authority, whether or not arising out of the same or similar facts.
3. For purposes of this Order and subsequent actions with respect to this Order, Mr. Jarrelle admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Mr. Jarrelle consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Mr. Jarrelle declares he has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the ~~State Water~~ Control Law and he waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Mr. Jarrelle to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.

8. Mr. Jarrelle shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Mr. Jarrelle shall show that such circumstances were beyond their control and not due to a lack of good faith or diligence on his part. Mr. Jarrelle shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Mr. Jarrelle. Notwithstanding the foregoing, Mr. Jarrelle agrees to be bound by any compliance date which precedes the effective date of this Order.
9. This Order shall continue in effect until:
 - a. Mr. Jarrelle petitions the Director or his designee to terminate the Order after he has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - b. The Director or Board terminates the Order in his or its sole discretion upon 30 days notice to Mr. Jarrelle.

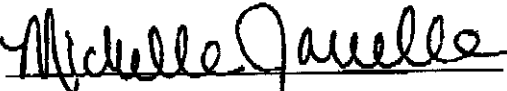
Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Mr. Jarrelle from his obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. By his signature below, Mr. Jarrelle voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of June 2, 2006.


David K. Paylor, Director
Department of Environmental Quality

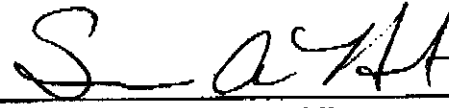
Mr. Jarrelle voluntarily agree to the issuance of this Order.

By: 
Date: 5-23-06

Commonwealth of Virginia

City/County of _____

The foregoing document was signed and acknowledged before me this 23 day of
May, 2006, by Michelle M Jarrelle, who owns the
(name)
property located at Lot 17, Thorngate Rd., in Chesterfield County.


Notary Public

My commission expires: 07/31/07

APPENDIX A

Mr. Jarrelle shall:

1. **By July 1, 2006, purchase the 0.3 acre wetland mitigation credits from an approved wetland mitigation bank (in the same or adjacent HUC [hydrologic unit code] within the same watershed as the impacts).**
2. **By August 1, 2006, submit to DEQ, documentation that the U.S. Army Corps of Engineers has debited the required 0.3 credits from the approved mitigation bank.**
3. **Pursuant to this Order, submit all documentation required by this Consent Special Order to:**

**Cynthia Akers
Department of Environmental Quality
Piedmont Regional Office
4949-A Cox Road
Glen Allen, Virginia 23060**